



September 22, 2004

**Via Electronic Filing**

The Honorable Magalie R. Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: Duke Energy Moss Landing LLC v. California Independent  
System Operator Corporation, Docket No. EL04-130-000**

Dear Secretary Salas:

Enclosed please find the Answer of the California Independent Operator Corporation to the complaint of Duke Energy Moss Landing LLC, submitted today in the above- captioned proceeding.

Thank you for your attention to this matter.

Respectfully Submitted,

**/s/ Gene L. Waas**  
Gene L. Waas

Regulatory Counsel  
California Independent  
System Operator Corporation

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

<b>Duke Energy Moss Landing, LLC</b>	)	
	)	
	)	
v.	)	<b>Docket No. EL04-130-000</b>
	)	
<b>California Independent System Operator Corporation</b>	)	
	)	

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR CORPORATION TO THE COMPLAINT OF  
DUKE ENERGY MOSS LANDING LLC**

Pursuant to Rules 206(f) and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.206(f) and 385.213 (2004), and the Notice of Filing issued on September 2, 2004, the California Independent System Operator Corporation (“CAISO”) submits this Answer in response to the Complaint filed by Duke Energy Moss Landing, LLC (“Duke”).

**I. INTRODUCTION AND SUMMARY**

At the outset, the CAISO acknowledges that the Commission has issued a series of orders, currently subject to judicial review, establishing parameters by which merchant generators, not otherwise prohibited by existing bilateral arrangements, may self-supply their station power needs.<sup>1</sup> The CAISO also recognizes<sup>2</sup> that its existing tariff does not yet reflect these policies.

---

<sup>1</sup> See for example, *PJM Interconnection, LLC*, 94 FERC ¶ 61,251 (2001), *clarified and reh’g denied*, 95 FERC ¶ 61,333 (2001); *PJM Interconnection, LLC*, 95 FERC ¶ 61,470 (2001); *Key Span-Ravenswood*, 99 FERC ¶ 61,167, *order on compliance*, 101 FERC ¶ 61,230

What the CAISO objects to is Duke's efforts to unilaterally amend the CAISO Tariff by seeking the adoption of specific terms that may not be appropriate to the California market or may result in significant changes and costs to the CAISO systems, including diverting CAISO staff from other critical ongoing work that affects a broad spectrum of Market Participants, including, but not limited to, the California Refund re-run process, upgrading the ISO's settlements systems, and implementing redesigned markets. The CAISO recognizes that Duke has sought the institution of a stakeholder process, and understands as well how any single Market Participant may feel that its specific priority issue should be addressed in a more timely manner than other issues. There are, however, many competing concerns that stretch the CAISO's resources and, at this point in time, the CAISO's resources are stretched quite thin. While any issue in isolation certainly can be addressed in a more timely manner, the combined scope of work often will lead to a need to prioritize projects.

The CAISO has recognized the need to be in conformance with the Commission's station power policies, but strongly believes that it is important to consider fully the concerns of all stakeholders, not just a single entity, in developing an appropriate policy that will affect a multitude of Market Participants and a large number of facilities. Therefore, in order to address this important issue in an expedited basis, the CAISO proposes the following:

---

(2002); *Rumford Power Associates, L.P.*, 97 FERC ¶ 61,173 (2001); *Midwest Independent Transmission System Operator, Inc.*, 106 FERC ¶ 61,073 (2004).

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meaning set forth in the Master definitions Supplement, Appendix A to the ISO Tariff.

- (1) the Commission order any CAISO Market Participants which may be interested in self-supplying station power to file information regarding the units for which self-supply is being sought; the potential source or sources of remote self supply; and any information on any limitations such as contractual restrictions that would prevent the entity from participating in a self-supply program.
- (2) three weeks following the filing of this information; the CAISO would post a proposal on station service, including specific changes to the ISO Tariff;
- (3) the Commission would convene a two-day stakeholder meeting to discuss issues relating to the self-supply of station power and the CAISO proposal.
- (4) the CAISO would then have a period of several weeks to revise its proposal and make a Section 205 tariff filing with the Commission.

The CAISO believes the process outlined above will allow for an expeditious but full hearing of the issues and better enable the CAISO, stakeholders, and the Commission to develop station power procedures appropriate for California that take into consideration the needs of all Market Participants and the reasonable capabilities of the CAISO.

## **II. COMMUNICATIONS**

Communication regarding this matter on behalf of the CAISO should be directed to the following individuals, whose names should be entered on the official service list maintained by the Secretary for this docket:

Gene L. Waas  
Regulatory Counsel  
California Independent System  
Operator Corporation  
151 Blue Ravine Road  
Folsom, CA 95630  
Telephone (916) 608-7049

David B. Rubin  
Swidler Berlin Shereff  
Friedman, LLP  
3000 K. Street, N.W.  
Washington, D.C. 20007  
(202) 424-7500

### III. DISCUSSION

#### A. The Commission Should Obtain Information on the Scope of the Issue in California

The Commission has determined that when generators engage in on-site self supply of their station power requirements or remote self- supply from facilities with a common ownership there is not a sale for resale but a netting of the station power requirements against gross output. *See for example, PJM Interconnection, et. al.*, 95 FERC ¶¶ 61,333, 62,182-83 (2001). The Commission has also stated that “a company that is remotely self supplying one of its facilities with station power at another one of its facilities may need to arrange for transmission and/or local distribution services over the facilities of a third party.” *Id.* at 62,184.

The CAISO recognizes that Duke has expressed interest in the remote self-supply of their station service needs. In implementing a remote self-supply program, however, it is important to identify the scope of the issue. If the issue involves a small number of facilities with very discrete physical characteristics, it may be better to try to accommodate concerns in a way that does not require significant changes to metering and billing systems. Conversely, if the issue involves a significant number of units, greater automation may be required to prevent significant problems for the CAISO’s settlements department. The CAISO notes that the Commission has found that separate corporations “whether they are set up as limited liability corporations or otherwise” are not eligible to remotely self-supply. *Id.* at 62,190.

Thus, as a first step, the CAISO would propose that the Commission order any CAISO Market Participants which may be interested in self-supplying station power to file information regarding: (1) the Generating Unit or Units for which self-supply is being sought; (2) the potential source or sources of remote self supply; and (3) any contractual or other limitations that may limit their ability to participate in a self-supply program.

**B. Once the Basic Information on the Scope of the Issue is Collected, the CAISO would Expeditiously Prepare a “Straw” Proposal for Consideration at a Commission-Led Technical Conference**

Once the relevant information is filed with the Commission, the CAISO would need a brief period of approximately three weeks to prepare and submit a “straw” proposal that would serve as the basis for a technical conference discussed below. The straw proposal would make recommendations regarding such issues as metering requirements; the applicable period of netting; pricing of any surplus or shortages; scheduling, billing and settlement practices; and the applicability of CAISO charges.

**C. The Commission Should Order a Technical Conference To Consider the Issues Raised in the Complaint**

The purpose of the Conference would be to consider the CAISO’s proposal as well as any other issues of concern to stakeholders regarding self-supply of station power. Specific issues could include the following:

- (1) The number of entities that desire to remotely self-supply station power.

- (2) The eligibility of those entities to self-supply in accordance with current Commission precedent and existing agreements.
- (3) Any particular considerations of California law or the California market that might effect the Commission's prior self-supply determinations, in particular the appropriateness of a monthly netting period.
- (4) Implementation details associated with remote self-supply
  - Metering requirements
  - Calculation of prices for surplus or shortage
  - Scheduling requirements
  - Applicable CAISO charges

In the context of other independent system operators, the Commission has recognized the importance of seeking stakeholder input on issues associated with self-supply of station service before proceeding with formal tariff filings.<sup>3</sup> It should do the same in this case. It is far better to proceed in an organized manner to collect relevant data and information before finalizing and litigating a proposal. The CAISO is already burdened and time-constrained by a significant number of re-runs of its market. Failure to take the appropriate up-front time to consider the issue will potentially only result in greater expense or delays in implementation and finalization of the station service requirements due to litigation uncertainty and potential modifications on rehearing.

**E. Duke's Statements Regarding the Ease of Implementation Are Incorrect Providing the Service will Require Significant Effort**

---

<sup>3</sup> *Key Span Ravenswood*, 99 FERC at 61,680("we are mindful of the NYISO's concern that it be permitted to work with its stakeholders to ensure that any such changes are workable in New York.")

Duke argues that California's "organized wholesale market structure facilitates the netting process." Complaint at 3. Duke notes that prices are readily available for periods of time over the monthly period when a generator temporarily is not operating and claims that these real-time prices are "easily settled against revenue received for generation output during other times of the month by formal settlement process at the conclusion of the month. *Id.*

Duke's pleading inappropriately glosses over the significant effort that will be needed to implement its own station service proposal. The CAISO does not currently have in place systems to collect the necessary meter data, perform monthly netting calculations, determine appropriate prices for any net shortages and generate the billing statements.

A discussion as to a realistic time period to implement the proposal given the concurrent demands on CAISO staff, particularly the CAISO Settlements staff, would be a necessary part of the CAISO's proposed technical conference.



#### **IV. CONCLUSION**

Wherefore, for the reasons discussed above, the Complaint should be granted, in part. The Commission should order the implementation of the CAISO's proposed process for expeditiously addressing the issues raised by Duke's Complaint.

Respectfully submitted,

**/s/ Gene L. Waas**

Charles F. Robinson  
General Counsel  
Gene L. Waas  
Regulatory Counsel  
California Independent System  
Operator Corporation  
151 Blue Ravine Road  
Folsom, CA 95630  
Telephone (916)608-7049

**/s/ David B. Rubin**

David B. Rubin  
  
Swidler Berlin Shereff  
Friedman, LLP  
3000 K. Street, N.W.  
Washington, D.C. 20007  
(202) 424-7500  
  
Counsel for the California  
Independent System Operator  
Corporation

Dated: September 22, 2004

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the forgoing document upon each person designated on the official service list for the captioned proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, CA this 22<sup>nd</sup> day of September 2004.

**/s/ Gene L. Waas**  
Gene L. Waas